

contract. Amounts which exceed allowable costs may be paid to a major subcontractor only from the service charge negotiated between OPM and the Carrier.

## PART 1632—CONTRACT FINANCING

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AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 52 FR 16043, May 1, 1987, unless otherwise noted.

### Subpart 1632.1—General

#### 1632.170 Recurring premium payments to carriers.

(a) *Recurring payments to carriers of community-rated plans.* OPM will pay to carriers of community-rated plans the premium payments received for the plan less the amounts credited to the contingency and administrative reserves. Premium payments will be due and payable not later than 30 days after receipt by the Federal Employees Health Benefits (FEHB) Fund.

(b)(1) *Recurring payments to carriers of experience-rated plans.* OPM will make payments on a letter of credit (LOC) basis. Premium payments received for the plan, less the amounts credited to the contingency and administrative reserves, will be made available for carrier drawdown not later than 30 days after receipt by the FEHB Fund. In addition, contingency reserve and interest distribution payments will be made

available for carrier drawdown from the LOC account. Carriers will use the LOC account in accordance with guidelines issued by OPM.

(2) Withdrawals from the LOC account will be made on a checks-presented basis. Under a checks-presented basis, drawdown on the LOC is delayed until the checks issued for FEHB Program disbursements are presented to the carrier's bank for payment.

(3) OPM may grant a waiver of the restriction of LOC disbursements to a checks-presented basis if the carrier requests the waiver in writing and demonstrates to OPM's satisfaction that the checks-presented basis of LOC disbursements will result in significantly increased liability under the contract, or that the checks-presented basis of LOC disbursements is otherwise clearly and significantly detrimental to the operation of the plan. Payments to carriers that have been granted a waiver may be made by an alternative payment methodology, subject to OPM approval.

[57 FR 14360, Apr. 20, 1992]

#### 1632.171 Clause—community-rated contracts.

The clause at 1652.232–70 shall be inserted in all community-rated FEHBP contracts.

[57 FR 14360, Apr. 20, 1992]

#### 1632.172 Clause—experience-rated contracts.

The clause at 1652.232–71 shall be inserted in all experience-rated FEHBP contracts.

[57 FR 14360, Apr. 20, 1992]

### Subpart 1632.6—Contract Debts

#### 1632.607 Tax credit.

FAR 32.607 has no practical application to FEHBP contracts. The statutory provisions at 5 U.S.C. 8906(c) and (d) authorize joint enrollee and Government contributions to the FEHBP Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, carriers may not offset debts to the Fund by a tax credit which is solely a Government obligation.

**1632.617 Contract clause.**

The clause at (FAR) 48 CFR 52.232–17 will be modified in all FEHBP contracts to exclude the words “net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481).”

[59 FR 14765, Mar. 30, 1994]

**Subpart 1632.7—Contract Funding****1632.770 Contingency reserve payments.**

(a) Payments from the contingency reserve shall be made in accordance with 5 CFR 890.503.

(b) A carrier for an FEHB plan may apply to OPM at any time for a payment from the contingency reserve that is in addition to those amounts, if any, paid under 5 CFR 890.503(c)(1) through (c)(4), if the carrier can show good cause, such as, unexpected adverse claims experience. OPM will decide whether to allow the request in whole or in part and will advise the carrier of its decision. However, OPM shall not unreasonably withhold approval for amounts requested that exceed the plan's preferred minimum balance for the contingency reserve.

**1632.771 Non-commingling of FEHBP funds.**

(a) This section applies to contracts based on cost analysis.

(b) Carrier or underwriter commingling of FEHBP funds with those from other sources makes it difficult to precisely determine FEHBP cash balances at any given time or to precisely determine investment income attributable to FEHBP invested assets.

(c) FEHBP funds shall be maintained separately from other cash and investments of the carrier or underwriter. Cash and investment balances reported

on FEHBP Annual Accounting Statements must agree with the carrier's books and records.

(d) This requirement may be waived by the contracting officer in accordance with the clause at 1652.232–70 when adequate accounting and other controls are in effect. If the requirement is waived, the waiver will remain in effect until it is withdrawn by OPM. The waiver shall be withdrawn if OPM determines that the accounting controls are no longer adequate to properly account for FEHBP funds.

**1632.772 Contract clause.**

The clause at 1652.232–70 shall be included in all contracts that are based on cost analysis.

**Subpart 1632.8—Assignment of Claims****1632.806–70 Contract clause.**

The clause set forth in 1652.232–73 shall be inserted in all FEHBP contracts.

[55 FR 27415, July 2, 1990]

**PART 1633—PROTESTS, DISPUTES, AND APPEALS**

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

**1633.070 Designation of the Board of Contract Appeals.**

The Armed Services Board of Contract Appeals (ASBCA) serves as the Board of Contract Appeals for the FEHBP. The rules of procedure followed in a dispute shall be those prescribed by the ASBCA.

[52 FR 16043, May 1, 1987]